

II. Summary of Rejections

The following claim rejections were submitted by the Examiner in the outstanding Office Action:

- Claims 1-15, 30-35, 43-45, and 51-58 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 5,083,361 to Rudy; and
- Claims 1-2, 4-10, 12-15, 30-31, 33-35, 43, and 45 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 5,741,568 to Rudy.

III. Discussion of Applied Prior Art

Discussion of U.S. Patent Number 5,083,361 to Rudy

U.S. Patent Number 5,083,361 to Rudy (hereafter referred to as Rudy '361) discloses a pressurized bladder. With reference to Figures 2, 2a, and 2b, for example, the bladder includes an outer barrier 12, a fabric 14, and a pair of connecting sheets 23 and 24. Barrier 12 forms an exterior of the bladder and seals a pressurized fluid within the bladder. Fabric 14 is formed from a pair of textile layers 16 and 18 and a plurality of threads 20 that extend between textile layers 16 and 18. Connecting sheets 23 and 24 are polymer layers.

When assembled, connecting sheets 23 and 24 are effectively melted into the surface of textile layers 16 and 18. That is, threads from textile layers 16 and 18 extend into connecting sheets 23 and 24 and are embedded in the solid structure of connecting sheets 23 and 24 (see Figure 4c of Rudy '361). Connecting sheets 23 and 24 are, in turn, joined with barrier 12. Accordingly, connecting sheets 23 and 24 join to each of textile layers 16 and 18 and barrier 12. Note that textile layers 16 and 18 are not joined to barrier 12. Rather, textile layers 16 and 18 are joined to connecting sheets 23 and 24, and connecting sheets 23 and 24 are joined to barrier 12.

Discussion of U.S. Patent Number 5,741,568 to Rudy

U.S. Patent Number 5,741,568 to Rudy (hereafter referred to as Rudy '568) discloses a pressurized bladder. With reference to Figure 2, the bladder includes a barrier 11 and a compressible insert 12. Barrier 11 forms an exterior of the bladder and seals a pressurized fluid within the bladder. Insert 12 is located within barrier 11 and is joined to barrier 11.

With reference to Figure 3, insert 12 includes a plurality of fibers 13b that extend into barrier 11, thereby joining barrier 11 and insert 12. More particularly, fibers 13b extend into

barrier 11 and are locked into the solid structure of barrier 11. With reference to the specification, "the discrete filaments have a denier per filament of between about 1 and 20 and a length sufficient to allow a first portion to embed in the flexible barrier material and a second portion to embed in the compressible insert" (Rudy '568, column 7, lines 16-19). A similar configuration is disclosed in Figures 5A-5E.

IV. Discussion of Claims 1-8

Independent claim 1 recites various features of a fluid-filled bladder for an article of footwear. The bladder includes a flexible outer barrier that is substantially impermeable to a fluid contained by the bladder. In addition, the bladder includes a core located within the outer barrier. The core has at least one fusing filament that fuses with the outer barrier and secures the core to the outer barrier.

The Office Action rejects independent claim 1 as being anticipated by each of Rudy '361 and Rudy '568. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). As discussed below, Rudy '361 and Rudy '568 fail to teach or suggest a fusing filament that fuses with an outer barrier, as recited by independent claim 1.

Rejection Over Rudy '361

Rudy '361 discloses a configuration wherein textile layers 16 and 18 are not fused to barrier 12. Rather, textile layers 16 and 18 are joined to connecting sheets 23 and 24, and connecting sheets 23 and 24 are fused to barrier 12. More particularly, various threads or yarns within textile layers 16 and 18 are joined to connecting sheets 23 and 24, and connecting sheets 23 and 24 are fused to barrier 12. In contrast, independent claim 1 recites that the fusing filament of the core "fuses with the outer barrier...." As discussed above, however, Rudy '361 discloses a configuration wherein textile layers 16 and 18 are joined to connecting sheets 23 and 24, rather than being fused with barrier 12. Accordingly, Rudy '361 does not disclose at least one fusing filament that is fused with the outer barrier.

In response to similar arguments submitted in an Amendment of June 14, 2005, the Office Action states that the claims do not "call for the core to be directly secured to the outer

barrier" (Office Action mailed July 1, 2005, Page 4). The claims do call, however, for the fusing filament to be fused with the outer barrier. As an analogy, assume that an object has three coextensive layers that include a Layer A, a Layer B, and a Layer C arranged in that order. If Layer A is fused with Layer B, and Layer B is fused with Layer C, then it would be improper to state that Layer A is fused with Layer C. Rather, one might state that Layer B secures Layer A to Layer C, or one might state that Layer A is joined to Layer C with Layer B. It would be incorrect, however, to state that Layer A is fused with Layer C. As discussed below in detail, fusing two elements together implies that the elements blend thoroughly or melt together. Given that Elements A and C do not blend or melt together, they cannot be fused. Applying this analogy to Rudy '361, it would be incorrect to state that textile layers 16 and 18 are fused to barrier 12 given that connecting sheets 23 and 24 act as an intermediate element and no blending or melting occurs between barrier 12 and textile layers 16 and 18.

Continuing, the Office Action also states that "the sheets 23 and 24 [of Rudy '361] are melted and therefore some of the filaments from the core would be in connected to the outer barrier 12. Moreover, the filaments 46 shown in figure 4c are in direct contact with the outer barrier 12" (Office Action mailed July 1, 2005, Page 4). The Applicants do not contest the assertion that filaments 46 may be depicted as contacting barrier 12. The mere fact that filaments 46 may contact barrier 12, however, does not teach or suggest that filaments 46 are "fused with" barrier 12.

Consistent with the specification of the current application, fusing occurs when elements (a) "blend thoroughly by or as if by melting together : COMBINE" or (b) "become blended or joined by or as if by melting together" (See Merriam-Webster's Dictionary, Tenth Edition). Rudy '361 may disclose a configuration wherein filaments 46 contact barrier 12, but Rudy '361 incorporates no teaching or suggestion that filaments 46 blend thoroughly or melt together with barrier 12.

Based upon the above discussion, the Applicants respectfully submit that independent claim 1 is allowable over Rudy '361. In addition, claims 2-8 should be allowable for at least the same reasons.

Rejection Over Rudy '568

Rudy '568 discloses a configuration wherein fibers are embedded within the barrier, but not fused to the barrier. Insert 12 includes a plurality of fibers 13b that are embedded within barrier 11, thereby joining barrier 11 and insert 12. According to Rudy '568, "the discrete filaments have a denier per filament of between about 1 and 20 and a length sufficient to allow a first portion to embed in the flexible barrier material and a second portion to embed in the compressible insert" (Rudy '568, column 7, lines 16-19). Rudy '568 teaches, therefore, that fibers 13b are embedded within barrier 11.

Embedding fibers within a barrier is significantly different than fusing the fibers with the barrier. An Element A may be embedded within an Element B without any fusing between Element A and Element B. For example, a steel post supporting a street sign may be embedded within concrete, a fly may be embedded within amber, and a broken limb may be embedded within plaster that forms a cast. Furthermore, a fiber may be embedded within a polymer material. In none of these examples, however, are the objects joined through fusing. As noted above, fusing occurs when elements (a) "blend thoroughly by or as if by melting together : COMBINE" or (b) "become blended or joined by or as if by melting together" (See Miriam-Webster's Dictionary, Tenth Edition). Merely embedding fibers 13b in barrier 11 does not qualify as fusing fibers 13b to barrier 11. More particularly, embedding fibers 13b in barrier 11 does not teach or suggest that fibers 13b blend thoroughly or melt together with barrier 11.

In response to similar arguments submitted in the Amendment of June 14, 2005, the Office Action states that the fibers "are embedded by a curing process and therefore since curing consist of heat and pressure the elements are fused together" (Office Action mailed July 1, 2005, Page 4). In support of this assertion, the Office Action refers to column 8, lines 39-44 of Rudy '568, which states "Final curing of the foam embeds the filaments therein, creating a secure bond. The multitude of high tensile strength filaments of the fabric penetrate the surface layers of the compression member and simultaneously overlap and bond to the filaments comprising the surface layer of the compressible insert." As a first matter, this portion of Rudy '568 refers to the manner in which fibers 13b are joined with insert 12, not with barrier 11. Furthermore, even if this passage from Rudy '568 referred to joining of fibers 13b to barrier 11, there is no teaching or suggestion that the fibers are fused with the barrier. Curing might (although this is not stated in Rudy '568) involve heat and pressure, but the mere fact that heat and pressure are present does

not imply that fusing occurs. Rather, curing is noted to demonstrate that insert 12 (not barrier 11) may have a "tacky, penetrable surface" (Rudy '568, column 8, lines 36-37) that receives fibers 13b, and curing of the foam material forming the surface embeds the fibers therein.

Based upon the above discussion, the Applicants respectfully submit that independent claim 1 is allowable over Rudy '568. In addition, claims 2 and 4-8 should be allowable for at least the same reasons.

V. Discussion of Claims 9-15, 30-35, and 43-45

Each of independent claims 9, 30, and 43 recite various features of a bladder for an article of footwear. As with independent claim 1, each of independent claims 9, 30, and 43 recite that the bladder includes a barrier and a core, and filaments of the core are fused with the barrier. Accordingly, independent claims 9, 30, and 43 should be allowable over Rudy '361 and Rudy '568 based upon arguments that are identical to the arguments discussed above for independent claim 1, and claims 10-15, 31-35, and 44-45 should be allowable for at least the same reasons.

VI. Discussion of Claims 51-58

Independent claim 51 recites various features of a fluid-filled bladder for an article of footwear. The bladder includes a flexible outer barrier that is substantially impermeable to a fluid contained by the bladder. In addition, the bladder includes a core located within the outer barrier. The core includes at least one fusing filament that is fused to the outer barrier and secures the core to the outer barrier. A material of the fusing filament is the same as a material of the outer barrier.

The Rudy patents disclose various materials for the barriers, fabric, and insert, for example, but does not disclose a configuration wherein the same materials are utilized. The Office Action states that connecting sheets 23 and 24 may be made out of the same material as barrier 12. Independent claim 51, however, states that a material of the fusing filament is the same as a material of the outer barrier. The fact that connecting sheets 23 and 24 may be made out of the same material as barrier 12 does not teach or suggest that fusing filaments may be made of the same material as the barrier.

Based upon the above discussion, the Applicants respectfully submit that independent claim 51 is allowable over Rudy '361 and Rudy '568. In addition, claims 52-58 should be allowable for at least the same reasons.

VII. Conclusion

In view of the foregoing, the Applicants respectfully submit that all claims are in a condition for allowance. The Applicants respectfully request, therefore, that the rejections be withdrawn and that this application now be allowed.

This Response is being timely filed by facsimile transmission on August 31, 2005. Should additional fees or an extension of time be deemed necessary for consideration of this Response, such fees or extension are hereby requested and the Commissioner is authorized to charge deposit account number 19-0733 for the payment of the requisite fee. If anything further is desirable to place the application in even better form for allowance, the Examiner is respectfully requested to telephone the undersigned representative at (503) 425-6800.

Respectfully submitted,

By: Byron S. Kuzara
Byron S. Kuzara
Registration No. 51,255

Banner & Witcoff, Ltd.
1001 G Street, N.W.
Washington, D.C. 20001-4597
Telephone: (202) 824-3000

Dated: August 31, 2005